

1 Sheri M. Thome, Esq.
Nevada Bar No. 008657
2 Chad C. Butterfield, Esq.
Nevada Bar No. 010532
3 **WILSON, ELSE, MOSKOWITZ, EDELMAN & DICKER LLP**
300 South Fourth Street, 11th Floor
4 Las Vegas, Nevada 89101
(702) 727-1400; FAX (702) 727-1401
5 sheri.thome@wilsonelser.com
chad.butterfield@wilsonelser.com
6 *Attorneys for Defendants/Counter-Claimants*
Beasley FM Acquisition Corp., Beasley Broadcasting
7 *of Nevada, LLC, WAEC License Limited Partnership*
and KJUL License LLC

8
9 **UNITED STATES DISTRICT COURT**

10 **DISTRICT OF NEVADA**

11 SILVER STATE BROADCASTING, LLC; a
Nevada LLC; ROYCE INTERNATIONAL
12 BROADCASTING CORPORATION; a Nevada
corporation; GOLDEN STATE BROADCASTING
13 LLC, a Nevada corporation,

14 Plaintiffs,

vs.

15 BEASLEY FM ACQUISITION CORPORATION,
a Delaware corporation; BEASLEY
16 BROADCASTING OF NEVADA, LLC, a North
Carolina limited liability company; WAEC
17 LICENSE LIMITED PARTNERSHIP; a Delaware
limited partnership; KJUL LICENSE LLC, a North
18 Carolina limited liability company; MICHAEL JAY
BERGNER dba BERGNER & CO., an individual;
19 DOES 1 through 50; and ROE ENTITIES 51
through 100, inclusive,

20 Defendants.

21 BEASLEY FM ACQUISITION CORPORATION,
a Delaware corporation; BEASLEY
22 BROADCASTING OF NEVADA, LLC, a North
Carolina limited liability company; WAEC
23 LICENSE LIMITED PARTNERSHIP, a Delaware
limited partnership; KJUL LICENSE LLC, a North
24 Carolina limited liability company,

25 Counter-Claimants,

26 vs.

27 SILVER STATE BROADCASTING, LLC, a
Nevada LLC,

28 Counter-Defendant.

CASE NO: 2:11-cv-1789-APG-CWH

**REQUEST FOR EXCEPTION FROM
PERSONAL ATTENDANCE AT
SETTLEMENT CONFERENCE**

1 Defendants/Counter-claimants Beasley FM Acquisition Corporation, Beasley Broadcasting
2 of Nevada, LLC, WAEC License Limited Partnership and KJUL License LLC (hereinafter
3 collectively "Beasley Broadcasting") by and through their counsel, SHERI M. THOME and CHAD
4 C. BUTTERFIELD of the law firm of WILSON, ELSE, MOSKOWITZ, EDELMAN & DICKER
5 LLP, hereby submit the instant request for exception from personal attendance at the settlement
6 conference scheduled for June 8, 2016 before Magistrate Judge Hoffman. [Dkt. #269]

7 Relevant Background

8 The Court is undoubtedly familiar with the facts of this case, which are not repeated in detail
9 here, except as necessary for this request. In 2009, Plaintiff Silver State Broadcasting, LLC
10 purchased from Beasley Broadcasting of Nevada, LLC, WAEC License Limited Partnership, and
11 KJUL License LLC substantially all of the assets for us in operating two broadcast radio stations in
12 Las Vegas, Nevada. Apparently unsatisfied with the transaction, Plaintiffs Silver State
13 Broadcasting, LLC, Royce International Broadcasting Corporation, and Golden State Broadcasting,
14 LLC filed suit against Beasley Broadcasting and Michael J. Bergner dba Bergner & Co., who acted
15 as Silver State Broadcasting, LLC's broker in the transaction. Plaintiffs asserted numerous claims
16 against Beasley Broadcasting and alleged losses of approximately \$96,000,000 resulting from the
17 transaction. Through extensive motion practice, Beasley Broadcasting prevailed on all claims
18 Plaintiffs had asserted. [See Dkt. ## 230, 266]

19 Beasley Broadcasting has also asserted counter-claims against Silver State Broadcasting,
20 LLC arising out of Silver State's breach of agreements primarily arising out of the purchase of assets
21 from Beasley Broadcasting. On January 25, 2016, the Court granted summary judgment, in part, on
22 Beasley Broadcasting's counter-claims for Breach of Contract – APA and Assignment and
23 Assumption Agreement; and Breach of Contract – Sublease. As to the claim for Breach of Contract
24 – APA and Assignment and Assumption Agreement, the Court granted summary judgment as to
25 liability, but found that genuine issues of material fact remained as to damages, thus leaving that
26 issue for trial. As to the Counter-Claim for Breach of Sublease, the Court granted summary
27 judgment in favor of Beasley Broadcasting in the amount of \$93,061.44. [Dkt. #251] Accordingly,
28 the Counter-Claims that remain for trial include: (1) Breach of Contract – APA and Assignment and

1 Assumption Agreement (as to damages only); (2) Breach of Implied Covenant – APA and
2 Assignment and Assumption Agreement; (3) Breach of Implied Covenant – Sublease; (4) Indemnity
3 under APA; (5) Indemnity Under Sublease; and (6) Unjust Enrichment. As stated above, none of
4 Plaintiffs' claims remain.

5 Beasley Broadcasting respectfully requests an exception from personal attendance for their
6 insurance representative, John J. Mastrantonio of AIG. Mr. Mastrantonio's attendance and
7 participation in the settlement conference is unnecessary as Plaintiffs have no remaining claims
8 against Beasley Broadcasting for which insurance coverage is available, and the only claims at issue
9 for trial are Beasley Broadcasting's counter-claims against Silver State Broadcasting, LLC.
10 Furthermore, should the parties wish to resolve all matters at the settlement conference, Beasley
11 Broadcasting will have a client representative with full authority to make any such decisions present
12 at the settlement conference. To the extent Mr. Mastrantonio's limited participation is necessary,
13 Beasley Broadcasting requests authority to allow him to appear telephonically.

14 **ORDER**

15 GOOD CAUSE SHOWN, IT IS SO ORDERED that Beasley Broadcasting's insurance
16 representative from AIG shall be excused from personally appearing at the June 8, 2016 settlement
17 conference. The representative shall make himself or herself available by telephone.

18 Dated May 26, 2016

19
20 
21 _____
22 UNITED STATES MAGISTRATE JUDGE
23
24
25
26
27
28

Respectfully submitted this 25th day of May, 2016

**WILSON, ELSER, MOSKOWITZ, EDELMAN
& DICKER LLP**

BY: 

Sheri M. Thome, Esq.

Nevada Bar No. 008657

Chad C. Butterfield, Esq.

Nevada Bar No. 010532

300 South Fourth Street, 11th Floor

Las Vegas, Nevada 89101

Attorneys for Defendants/Counter-Claimants

Beasley FM Acquisition Corp., Beasley

Broadcasting of Nevada, LLC, WAEC License

Limited Partnership and KJUL License LLC

CERTIFICATE OF SERVICE

Pursuant to FRCP 5(b), I certify that I am an employee of WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP and that on this 25th day of May, 2016 I electronically filed and served a true and correct copy of the foregoing **REQUEST FOR EXCEPTION FROM PERSONAL ATTENDANCE AT SETTLEMENT CONFERENCE** to all parties on file with the CM/ECF.

Kurt R. Bonds, Esq.
Matthew Pruitt, Esq.
Adam Knecht, Esq.
Alverson Taylor Mortensen & Sanders
7401 W. Charleston Boulevard
Las Vegas, NV 89117
efile@alversontaylor.com
*Attorneys for Plaintiffs/Counter-Defendant
Silver State Broadcasting, LLC, Royce
International Broadcasting Corporation, and
Golden State Broadcasting, LLC*

Jack P. Burden
BACKUS, CARRANZA & BURDEN
3050 S. Durango Drive
Las Vegas, Nevada 89117
jbunden@backuslaw.com
Attorneys for Defendant Michael Jay Bergner

By 

An Employee of
WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP